

REMARKS

Claims 1-93 are pending in this application. By this amendment, claims 1, 43, 61 and 75 are amended and claims 89-93 are added.

Reconsideration and allowance in view of the following remarks are respectfully requested.

No new matter has been added by this amendment. Support for the amendments to the claims may be found, for example, in the Abstract and paragraphs 0026, 0030, 0051-0054, 0073-0079, 0091, 0121 and 0141 of the published patent application 2002/0077978. Claims 83-93 are added to recite further novel aspects of Applicant's claimed invention.

A. The 35 U.S.C. 112 Rejection

On page 3, the Office Action rejects claims 1, 43, 61 and 75 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Office Action asserts:

... it is not clear what is meant by account information. In clarifying the rejection, as requested by Applicant, Examiner respectfully points out that Applicant's specification includes various embodiments which have varying and mutually exclusive scopes of what would be the "account information".

The Office Action further asserts:

Reading the claims in light of the specification, one of ordinary skill in the art would not be able to determine the scope of "without account information". For the purposes of applying prior art, Examiner will give the phrase "transmitted over a network without account information" its broadest reasonable interpretation in light of the specification, to mean that the information is transmitted without a customer's account number or credit card number, or similar secretive personal financial information.

In response to the rejection, claims 1, 43, 61 and 75 are amended. For example, claim 1 is amended to recite:

wherein the pushing of funds, without account information of the first customer, is constituted by the payee not being provided with information such that the payor account is identifiable to the payee.

Accordingly, claim 1 is amended to further recite the meaning of “without account information.”

That is, the feature of “without account information” means that the payee cannot identify the payor account from which the funds are pushed.

Applicant submits that the claims satisfy 35 U.S.C. 112. Accordingly, applicant respectfully requests withdrawal of the rejection under 35 U.S.C. §112.

B. The 35 U.S.C. 102 Rejection

Claims 1-12, 14, 16, 19-21, 23, 24, 26, 27, 29-45, 47-59, 61 -86, and 88 are rejected under 35 U.S.C. 102(e) as being anticipated by Levchin et al., U.S. Patent No. 7,089,208.

Applicant respectfully traverses this rejection.

In the “Response to Arguments” on pages 6-10, the Office Action asserts:

Examiner is of the opinion that the reference of record, as cited above, teaches the claimed "pushing of funds", as broadly interpreted in light of Applicant's specification. While Examiner was aware of much discussion of "pushing of funds", Examiner was unable to find a clear definition which distinguished pushing of funds from the teachings of the prior art, in spite of Applicant's arguments that the prior art of record does not teach "pushing of funds". Therefore, Examiner was asserting that no discussion or explanation of "pushing of funds" found in the specification made the distinction, which Applicant was arguing, clear. Examiner respectfully appreciates that Applicant has provided evidence of where in the specification "pushing of funds" is clearly disclosed. However, Examiner respectfully disagrees that these portions of the specification distinguish the claimed "pushing of funds" from what is being taught in the prior art.

(emphasis added)

In response to the assertions in the Office Action, Applicant has amended claim 1, as well as the other independent claims 43, 61 and 75, to further distinguish over the applied art. Accordingly, Applicant submits that the distinction between the applied art to Levchin and the claimed invention is clear. In particular, claim 1 is amended to recite:

wherein the pushing of funds, without account information of the first customer, is constituted by the payee not being provided with information such that the payor account is identifiable to the payee.

Claims 43 and 61 are amended in a similar manner.

Claim 75 is also amended to further distinguish over the applied art. In particular, claim 75 is amended to further clarify the feature of the EFT credit message. Claim 75 is amended to recite:

... the EFT credit message including identification information that includes all the information in the credit message that is unique to the payor, the identification information consisting essentially of a transaction ID (identification), the transaction ID being an identification that is provided to the payor at the time of a transaction to which the electronic payment is associated ...

Applicant submits that in their respective ways, claims 1, 43, 61 and 75 yet further distinguish over the applied art to Levchin.

Applicant notes the Office Action's comments on pages 9-10 of the Office Action.

Therein, the Office Action asserts:

Furthermore, Applicant argues that the applied art is almost perfectly contrary to the claimed features and fails to teach transmitting information without the account information of the payor (page 25). Examiner respectfully disagrees, given the cited portions of Levchin, in which only an identifier and a value amount is needed (column 9 lines 4-10). Examiner argues that the "identity certificate" which is provided as proof that Levchin is in "complete contrast to the claimed invention" is never sent over the network with the transaction. The identity certificates (column 6 lines 29-45) are provided as a security measure in order to verify the identity of someone using the system. While these certificates are used to create the transaction certificates, it is the transaction certificates that are used to affect the transfer of funds. Furthermore, Levchin specifically recites that the transaction certificates includes the value being exchanged, and an identifier (column 6 lines 39-40), which is the exact limitation Applicant has claimed. No where does Levchin teach the identity certificate, or the sensitive information encompassed within the identity certificate being transferred along with the funds being sent to the recipient.

(emphasis added)

Further, Applicant notes the body of the rejection, on 5 of the Office Action. The Office Action asserts that Levchin teaches:

a second software component at the payor institution coupled to the first software component and coupled to the EFT network, the second software component receiving the payment instruction and transmitting from the payor institution to the payee institution through the EFT network an EFT credit message representing a credit in the amount of the payment (column 9 lines 4-19), the EFT credit message amounting to a pushing of funds from the payor to the payee, wherein in such a pushing of funds a payee account number of the another customer, the payee, is transmitted over the network without account information of the first customer, the payor (column 6 lines 39-41), and wherein the account information includes an expiration date of account (the information may include only the value and the identifier).

(emphasis added)

Thus, Applicant understands that the Office Action is relying on Levchin's transaction certificates to allegedly teach the claimed pushing of funds without account information of the first customer, as recited in claim 1, for example. Applicant further notes the comments in the Office Action regarding the "identity certificates" of Levchin. Applicant submits that column 9, lines 4-19 of Levchin (as relied upon in the body of the rejection as set forth in the excerpt above) simply does not speak to Levchin's "transaction certificates" as relied upon in the Office Action.

Further, the Office Action relies/references Levchin at column 6, lines 39-40, as to the transaction certificates. Therein, Levchin describes the transaction certificates. However, Applicant submits that the transaction certificates of Levchin relate to communications between the client and the server, and is simply not dispositive as to the claimed pushing of funds, as recited in claim 1.

Further and relatedly, Applicant notes Levchin at column 10, lines 14-26. Therein, Levchin describes further the transaction certificates:

After the initial synchronization connection is established, the client sends the present transaction (and any others it has stored and not already sent) to the server. The transactions may be sent using digital transaction certificates, as described above. The client is informed if any previous transactions of USER1 have cleared (e.g., another party in a previous transaction may have connected to the system and accepted the transaction), in which case they may be removed from the client. The server may then prioritize uncleared transactions according to some criteria (e.g., date, time, other party(ies), transaction value, direction of value transfer).

(emphasis added)

Thus, the transaction certificates, (of Levchin) fail to teach features so as to support the claimed “pushing of funds” since Levchin’s transaction certificates relate to communications between the client and the server, i.e., the client’s server. That is, claim 1 recites “a pushing of funds to the **electronic payment account of the another customer**”. (emphasis added) Levchin’s transaction certificates fail to relate to or teach such claimed feature, i.e., since Levchin’s transaction certificates fail to be passed to the electronic payment account of the another customer.

Clarification or withdrawal of the rejection is requested.

Accordingly, withdrawal of the rejection of claim 1 under 35 U.S.C. §102 is respectfully requested. Further, independent claims 43, 61, and 75 all recite patentable subject matter at least for reasons similar to those set forth above with respect to claim 1.

The dependent claims recite patentable subject matter based on their dependencies on the respective independent claims, as well as for the additional features such dependent claims recite. Withdrawal of the 35 U.S.C. §102 rejections is respectfully requested.

C. The 35 U.S.C. 103 Rejections Based on Levchin

In the Office Action, on page 9, the Office Action rejects claims 13, 17, 18, 28, and 46 under 35 U.S.C. 103(a) as being unpatentable over Levchin. Regarding claims 60, 74, and 87, on page 11, the Office Action rejects these claims under 35 U.S.C. 103(a) as being unpatentable

over Levchin, as applied above, in view of Magness, U.S. Patent No. 6,769,605. Regarding claims 15, 22, and 25, on page 11, the Office Action rejects these claims under 35 U.S.C. 103(a) as being unpatentable over Levchin, as applied above, in view of Drummond et al., U.S. Patent No. 7,080,036.

The Office Action asserts that Levchin fails to teach features related to a physical card linked to the payee account, and sending the physical card to the payee. The Office Action alleges that Magness solves such deficiencies.

Further, the Office Action asserts that Levchin fails to teach an interface configured such that when any of the customers of the plurality of additional banks access their respective account system, it appears that the customer's respective bank is operating the system. The Office Action then proposes to cure this noted deficiency with the teachings of Drummond.

Applicant submits that even if it were obvious to modify Levchin based on official notice (as asserted in the 35 U.S.C. 103 rejection based on Levchin), Magness, and Drummond, as proposed in the Office Action (which Applicant does not admit is obvious) such modification of Levchin would still fail to cure the deficiencies of Levchin as described above.

Accordingly, withdrawal of the rejections under 35 U.S.C. §103 based on Levchin and Drummond is respectfully requested.

D. Conclusion

For at least the reasons outlined above, Applicant respectfully asserts that the application is in condition for allowance. Favorable reconsideration and allowance of the claims are respectfully solicited.

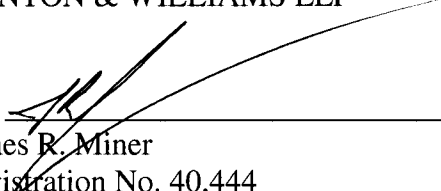
For any fees due in connection with filing this Response the Commissioner is hereby authorized to charge the undersigned's Deposit Account No. 50-0206.

Should the Examiner believe anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

HUNTON & WILLIAMS LLP

Date: **February 17, 2009**

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